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Message Text

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ACTION L-03

INFO OCT-01 AF-08 EUR-12 IO-13 ISO-00 CU-02 DHA-02 AID-05
CIAE-00 DODE-00 PM-04 H-01 INR-07 NSAE-00 NSC-05
PA-01 PRS-01 SP-02 SS-15 USIA-06 /088 W
----------181423 094598 /42
P R 181300Z FEB 77
FM AMEMBASSY CAPE TOWN
TO SECSTATE WASHDC PRIORITY 5746
INFO AMCONSUL DURBAN
AMCONSUL JOHANNESBURG
AMEMBASSY PRETORIA
USMISSION USUN NEW YORK
AMEMBASSY LONDON
AMEMBASSY ROME

C O N F I D E N T I A L SECTION 1 OF 2 CAPE TOWN 0242

E.O. 11652: GDS
TAGS: PINS, PINT, SEDU, SF, SHUM
SUBJ: LEGAL STATUS OF CHURCH SCHOOLS' ENROLLMENT OF BLACK STUDENTS

REF: (A) CAPE TONW 114, (B) CAPE TOWN 222, (C) STATE 35096

BEGIN LIMITED OFFICIAL USE
SUMMARY: LEGAL STATUS OF CHURCH SCHOOLS' ENROLLMENT OF NON-WHITES IS NOT CLEAR ACCORDING TO E.L. KING, ADVISOR TO ARCHBISHOP BURNETT AND ONE OF ANGLICAN REPS WHO WILL FORM COMMITTEE WITH CAPE PROVINCE EDUCATION DEPARTMENT OFFICIALS TO EXPLORE SCHOOL QUESTION (CAPE TOWN 222, PARA 1). EDUCATION FOR WHITES IS PROVINCIAL MATTER AND IN CAPE PROVINCE, AT LEAST, ATTENDANCE OF NON-WHITES AT WHITE SCHOOLS IS PROHIBITED BY ORDINANCE AND REGULATIONS, BUT THERE AMY ALSO BE PROVICISONS IN NATIONAL LAWS RELATING TO "COLORED" OR "BANTU" EDUCATION THAT WOULD NEED TO BE CONSIDERED. ACCORDING TO KING NO ONE REALLY KNOWS BECAUSE THERE HAS UNTIL NOW BEEN NO NEED TO RESEARCH IT. ONE OF THE PURPOSES
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OF COMMITTEE WILL BE TO DETERMINE ALL LEGISLATION THAT HAS A BEARING ON THIS QUESTION. FOLLOWING IS A SUMMARY OF THE LEGAL SITUATION IN CAPE PROVINCE AS BEST WE CAN DETERMINE IT FROM APPLICABLE PROVINCIAL ORDINANCE AND REGULATIONS. AMEMBASSY PRETORIA AND CONGEN DURBAN WILL SUBMIT SUMMARY OF CURRENT LEGAL SITUATION IN TRANSVAAL AND NATAL RESPECTIVELY. END SUMMARY.

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NOTE: FOLLOWING IS KEYED TO NUMBERED PARAGRAPHES
OF STATE 35096.

1. IN CAPE PROVINCE. THE EDUCATION ORDIANCE NUMBER 20
OF 1956, SECTION 116, PROVINDES THAT "THE DIRECTOR MAY
IN RESPECT OF ANY SCHOOL OR SCHOOLS FOR EUROPEAN PUPILS...
MAKE RULES GOVERNING THE ADMISSION, ENROLLMENT, ATTENDANCE...
OF PUPILS. SECTION 240 OF SAME ORDINANCE PROVIDES THAT
"NO PERSON SHALL ESTABLISH....A PRIVATE SCHOOL FOR EUROPEAN
CHILDREN...UNLESS SUCH SCHOOL IS REGISTERED WITH THE
DEPARTMENT". SECTION 240 (2) (C) PROVIDES THAT REGISTRA-
TION SHALL BE SUBJECT TO "COMPLYING WITH SUCH CONDITIONS
AS THE ADMINISTRATION MAY GENERALLY OR SPECIFICALLY
PERSCRIBE". BASED ON FOREGOING,DEPT. OF EDUCATION HAS
PROMULGATED "CONDITIONS FOR REGISTRATION OF
PRIVATE SCHOOLS FOR EUROPEAN PUPILS", SECTION 2.2 OF WHICH
READS "ONLY EUROPEAN TEACHING STAFF SHALL BE USED FOR THE
INSTRUCTION OF EUROPEAN PUPILS. NO NON-EUROPEAN PUPIL
MAY BE ADMITTED TO A SCHOOL FOR EUROPEAN PUPILS."
SECTION 114 OF EDUCATION ORDINANCE NO. 20 PROVIDES FOR
COMPULSORY ATTENDANCE. PARENT WHO REFUSES TO ENSURE
CHILD'S REGULAR ATTENDANCE AT SCHOOL SHALL BE LIBALE ON
FIRST CONVICTION ZTO A FINE NOT EXCEEDING FIVE POUNDS AND
ON CONVICTION OF A SECOND OR SUBSEQUENT OFFENSE TO A FINE
NOT EXCEEDING TWENTY POUNDS". THUS, IF A SCHOOL SHOULD
BE DEREGISTERED, IT WOULD PRESUMABLY NO LONGER
BE CONSIDRED A SCHOOL WITHIN MEANING OF THIS PROVISION.
AS TO POSSIBLE LIBALITY OF SCHOOL AUTHORITIES, SECTION
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243 OF ORDINANCE STATES THAT CONVICTION FOR AN OFFENSE
UNDER THE ORDINANCE FOR WHICH NO PENALTY EXPRESSLY
PROVIDED SHALL BE TWENTY POUNDS FOR EACH OFFENSE. KING
PRESUMES FINES COULD BE LEVIED FOR EACH DAY OF NON-COM-
PLIANCE. WITH REGARD DEREGISTRATION, CAPE ADMINISTRATOR
MUNNIK ANNOUNCED FEB 14 THAT HE WILL MEET FEB 22 WITH
CARDINAL MCCANN AT LATTER'S REQUEST. NO RPT NO ACTION
WOULD BE TAKEN BEFORE THEN AND HE SAID ANY SUBSEQUENT
ACTION WOULD DEPEND ON WHAT EMERGES AT THE TALKS. IN
TRANSVAAL, ON OTHER HAND, ADMINISTRATOR VAN NIERKERK
ISSUED STATEMENT FEB 15 THREATENING TO COMMENCE DEREGIS-
TRATION THIS WEEK OF FOUR CATHOLIC SCHOOLS IN TRANSVAAL
IF BLACK STUDENTS NOT EXPELLED. FOLLOWING DAY HE
ANNOUNCED THAT HE HAD GRANTED "URGENT REQUEST" OF ARCH-
BISHOP DANIEL OF PRETORIA TO MEET WITH A CATHOLIC DELE-
GATION TO DISCUSS THE PROBLEM. SO FAR AS WE AWARE,
THERE HAVE BEEN NO RPT NO MOVES AGAINST ANY PARENT BECAUSE
TO DATE NO RPT NO SCHOOL HAS BEEN DEREGISTERED. END OF
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2. BEGIN CONFIDENTIAL. TO BE DISCUSSED IN MEETING OF
CHURCH AND EDUCATION OFFICIALS DESCRIBED PARA 1, CAPE
TOWN 222. ARCHBISHOP BURNETT TOLD AMBASSADOR THAT AT
MEETING WITH THE MINISTER OF EDUCATION KOORNHOFF LATTER GAVE
HIM TO UNDERSTAND THAT HE HOPES WAY WOULD BE FOUND
TO
RESOLVE DIFFERENCES WITHOUT CHANGING LAWS WHICH WOULD
TAKE ISSUE TO FLOOR OF PARLIAMENT.
BOWDLER

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ACTION L-03

INFO OCT-01 AF-08 EUR-12 IO-13 ISO-00 CU-02 DHA-02 AID-05
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C O N F I D E N T I A L SECTION 2 OF 2 CAPE TOWN 0242

3. WE KNOW OF NO RPT NO NON-WHITES AT ANY METHODIST
SCHOOL. AS FOR ANGLICANS, ARBISHOP BURNETT TOLD AMBAS-
SADOR "IN STRICTEST CONFIDENCE" THAT IN FACT TWO COLORED
CHILDREN ARE ATTENDING AN ANGLICAN GIRLS SCHOOL IN CAPE
TOWN BUT FACT HAS NOT RPT NOT BEEN PUBLICIZED. ARCH-
BISHOP SAID FURTHER HE HOPES TO RESOLVE PROBLEM "WITH-
OUT DELAY" TO PERMIT EARLIEST POSSIBLE DESEGREGATION
OF SCHOOLS. HOWEVER, DISCUSSION WITH LEADING ANGLICAN
LAY FIGURES INDICATES THEY DO NOT EXPECT ENROLL ANY
(FURTHER) NON-WHITES UNTIL NEXT SCHOOL YEAR. END
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4. BEGIN LIMITED OFFICIAL USE. CATHOLIC CHURCH HAS
NOT RELEASED EXACT FIGURES BUT AS REPORTED CAPE TOWN

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222 NUMBER OF STUDENTS THOUGHT TO BE SOMEWHAT OVER
200. ONLY RELATIVELY SMALL NUMBER OF DIPLOMATS' CHILDREN
ARE INVOLVED, INCLUDING CHILDREN OF TRANSKEI AND MALAWI
AMBASSADORS AND US CONSUL SEEGERS. ACCORDING TO CARDINAL
MCCANN'S SECRETARY, FATHER STANTON, RECORDS ARE NOT
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KEPT ACCORDING TO RACE AND ONLY WAY TO DETERMINE EXACT
NUMBER OF SUCH PUPILS WOULD BE TO CONSULT PRINCIPAL OF
EVERY INDIVIDUAL SCHOOL. SCHOOLS CURRENTLY
ADMITTING NON-WHITES ARE THOUGHT TO INCLUDE 4 IN
TRANSVAAL, FIVE IN NATAL (WHERE PROVINCIAL GOVERNMENT
HAS NOT CHALLENGED THE CHURCH -- CAPE TOWN 222), 5 IN
CAPE TOWN, AND 2 IN PORT ELIZABETH. WE ARE CHECKING TO
GET MORE PRECISE FIGURES.

5. COPIES OF PRESS COVERAGE BEING AIR POUCHED.

6. CAPE TOWN 222 REPORTS WITHDRAWAL OF STATE SUBSIDY
FROM CHURCH SCHOOL IN WINDHOEK AND OFFER BY CHURCH IN
GERMANY TO REPLACE IT. WE NOT RPT NOT AWARE OF ANY
ADVERSE REACTIONS. CHURCH HAS SAID IT PLANS TO OPEN
OTHER INSTITUTIONS SUCH AS CLINICS, HOSPITALS (CAPE TOWN
225) BUT WE HAVE NO INFORMATION THAT THIS HAS BYET BEEN
IMPLEMENTED. PRESUMABLY DESEGREGATION OF ANY INSTITU-
TION REQUIRING GOVERNMENT LICENSE OR REGISTRATION WOULD
VIOLATE LAW OR REGULATION. MIXED ATTENDANCE AT
CHURCH SERVICES NOT RPT NOT AGAINST THE LAW
AND, WHILE NOT WIDESPREAD, BLACK ATTENDANCE
AT WHITE CHURCHES IS NOT UNCOMMON. WHITE ATTENDANCE
AT BLACK CHURCHES IS IMPEDED TO SOME EXTENT BY REQUIRE-
MENT THAT WHITES MUST OBTAIN PERMIT TO ENTER BLACK TOWN-
SHIPS BUT SOME HARDY SOULS IGNORE THE REQUIREMENT AND
ATTEND ANYWAY. MORE COMMON IS PREACTICE WHERE ONE OR
SEVERAL WHITE CONGREGATIONS ARE INVITED TO OPENING OF
NEW BLACK CHURCH. IN THOSE CASES, HOWEVER, THE BLACK
MINISTER USUALLY APPLIES BOR A "BLANKET" PERMIT IN ADVANCE.

7. SEE PARA 1 ABOVE.

8. SEE PARA 6 ABOVE.
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